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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/862,830	05/22/2001	John Gregory Schroeder	AA471	8865

27752 7590 04/06/2005

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EXAMINER

DOUYON, LORNA M

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/862,830	Applicant(s) SCHROEDER ET AL.	
	Examiner Lorna M. Douyon	Art Unit 1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. This action is responsive to the amendment filed on January 27, 2005.
2. Claims 1, 2 and 7 are pending.
3. Claims 1, 2 and 7 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Ehrlich (US Patent No. 4,099,912) for the reasons set forth in the previous office action.
4. The rejection of claims 1, 2 and 7 under 35 U.S.C. 103(a) as being unpatentable over Flynn et al. (US Patent No. 4,563,186) is withdrawn in view of Applicants' amendment.
5. Claims 1, 2 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite in the recital of "said fabric" in line 13 because there is previous reference to "fabric article" and "fabric treatment composition" in the claim, hence, it is not clear which "said fabric" is being referred to. It is suggested that the phrase be replaced with "said fabric treatment composition". In addition, in lines 5-6, the phrase "the fabric treatment composition, a fabric conditioning composition..." lacks a linking verb. It is suggested that the comma be replaced with "is" or "comprises".

The limitation of claim 2 is already in claim 1. It is suggested that this claim be reworded to read "...kit of Claim 1 wherein the fabric treatment composition is a fabric conditioning composition".

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Claim 7, being dependent upon claim 1, is rejected as well.

Response to Arguments

6. Applicants' arguments filed January 27, 2005 have been fully considered but they are not persuasive.

With respect to the rejection based upon Ehrlich, Applicants argue that the Office Action fails to disclose how Ehrlich teaches or suggests the claim limitation: the perfume of said laundry detergent composition and the perfume of said fabric treatment composition provide a consistent, additive and/or synergistic odor on a treated fabric article. Applicants also argue that Ehrlich merely discloses a fabric conditioning composition that is an *admixture* with the detergent (see col. 11, lines 50-51). Applicants also argue that in the added amendment: a fabric conditioning composition applied to the fabric article during the rinse cycle, one skilled in the art will readily appreciate that one can not make an admixture of a laundry detergent, which is used to the wash cycle, and a rinse-added fabric conditioning composition, which is used during the rinse cycle.

The Examiner respectfully disagrees with the above arguments because in col. 2, lines 3-17, Ehrlich teaches that the major inventive concept is that the components of detergent compositions are separately tableted or produced in convenient units so that the consumer, following the manufacturer's instructions, can formulate her own detergent composition so as to make it most suitable for washing the particular laundry at hand, and in the preferred readily dispensed tablet, envelope, packet or capsule forms, the present units are readily packaged, filled into a dispensing article, dispensed and used without the need for the consumer to purchase a large number of different formulations, and the use of the different detergent composition

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components allows sequential additions of these to the washing machine in those instances where this is preferable. Ehrlich also teaches in col. 11, lines 63-65, that normally, perfume will be present in all of the tablets so as to increase the pleasant aroma of the product and all components employed. In Example 1, Ehrlich teaches that a laundry detergent composition is made by mixing together tablets of each of the individual components and the perfume is equally distributed among the various tablets, see col. 12, lines 1-37, which shows that whatever perfume is used, it is the same perfume that is equally distributed among the various tablets. In col. 14, lines 47-49, Ehrlich also teaches that the quaternary softener and anti-static agent may be separately tableted, for addition to the rinse water after completion of washing. Hence, with the above teachings, the perfume would have been distributed to the quaternary softener tablet, the quaternary softener tablet being separately tableted and added to the rinse water, hence, would satisfy the limitation of the claim's "wherein the perfume of the laundry detergent composition and the perfume of the fabric treatment composition (i.e, quaternary softener) provide a consistent odor on a treated fabric article".

7. Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period


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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571) 272-1313. The examiner can normally be reached on Mondays-Fridays from 8:00AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lorna M. Douyon
Primary Examiner
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